

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Arnold HOFFMAN et al
 Application No.: 10/621,326
 Filed: July 18, 2003
 For: REDOX THERAPY FOR TUMORS



Art Unit: 1614
 Examiner: C. D. Muirhei
 Washington, D.C.
 Atty.'s Docket: HOFFMAN=9
 Confirmation No.: 2518
 Date: November 4, 2005

Customer Service Window, Mail Stop Amendment
 Honorable Commissioner for Patents
 U.S. Patent and Trademark Office
 Randolph Building, 401 Dulany Street
 Alexandria, Virginia 22314

Sir:

Transmitted herewith is a PRELIMINARY AMENDMENT AND REMARKS in the above-identified application.

☒ Small Entity Status: Applicant(s) claim small entity status. See 37 C.F.R. §1.27.

☒ No additional fee is required.

☐ The fee has been calculated as shown below:

(Col. 1)		(Col. 2)		(Col. 3)	SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS	RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
TOTAL	* 16	MINUS	** 20	0	x 25	\$		x 50	\$
INDEP.	* 2	MINUS	*** 3	0	x 100	\$		x 200	\$
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					+ 180	\$		+ 360	\$
					ADDITIONAL FEE TOTAL	\$		TOTAL	\$

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.

*** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

☒ Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

☐ It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity

Response Filed Within

☐ First - \$ 60.00
☐ Second - \$ 225.00
☐ Third - \$ 510.00
☐ Fourth - \$ 795.00

Month After Time Period Set

Other Than Small Entity

Response Filed Within

☐ First - \$ 120.00
☐ Second - \$ 450.00
☐ Third - \$ 1020.00
☐ Fourth - \$ 1590.00

Month After Time Period Set

☐ Less fees (\$) already paid for month(s) extension of time on .

☐ Please charge my Deposit Account No. 02-4035 in the amount of \$.

☐ Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$.

☐ A check in the amount of \$ is attached (check no.).

☒ The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

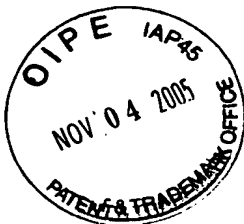
BROWDY AND NEIMARK, P.L.L.C.

Attorneys for Applicant(s)

By:

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: HOFFMAN=9

In re Application of:)	Confirmation No.: 2518
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Arnold HOFFMAN et al)	Art Unit: 1614
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REPLY TO RESTRICTION REQUIREMENT

Customer Service Window, Mail Stop Amendment
Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

Sir:

Applicants are in receipt of the Office Action mailed October 7, 2005, entirely in the nature of a requirement for restriction.

Acknowledgement by the PTO of the receipt of applicants' papers filed under Section 119 would be appreciated.

Restriction has been required between what the PTO deems to be two (2) patentably distinct inventions. As applicants must make an election even though the requirement is traversed, applicants hereby respectfully and provisionally elect Group II presently claims 5-16, directed to a method of treating a tumor by administering plural agents, with traverse and without prejudice.

The requirement is traversed on the basis that the only difference between Groups I and II is one of scope. The Group I claims are broader or more generic, and the Group II claims merely add thereto a second agent, the Group II claims being consistent with the Group I claim 4 which also adds a second agent.

Moreover, even if the Examiner disagrees, applicants respectfully note that the requirement should in any event be withdrawn on the basis of the second paragraph of MPEP 803 which **requires** search and examination of an entire application, even when the requirement is correct, if it would not constitute a serious burden to do so. In this regard, applicants note that the classification for Groups I and II appears to be the same, as indicated in the Office Action, whereby no serious burden is demonstrated.

Withdrawal of the requirement and examination of all the claims on the merits is therefore respectfully requested.

In addition to the restriction requirement, the PTO has required an election of species. Again, as applicants are required to make an election, even though the requirement is traversed, applicants hereby respectfully and provisionally elect disulfiram for agent (i) (claims 6-7 and 9-13), curcumin for agent (ii) (claims 7-8 and 14-15), buthionine sulfoximine (BSO) for agent (iii) (claims 10-11 and 14), and carmustine for agent (iv) (claims 12-13 and 15), with traverse and without prejudice.

Applicants have provided immediately above a listing of all claims readable on the species. In addition claims 1 and 5 are generic as noted by the Examiner, and thus the generic claims also read on all species.

Applicants respectfully traverse on the basis that examination of at least **some** species other than the elected species would not constitute a "serious burden". Clearly, if the requirement were taken to its extremes, applicants would be required to file a huge number of divisional applications to cover the entire invention, and this would not only be onerous but would be entirely unreasonable.

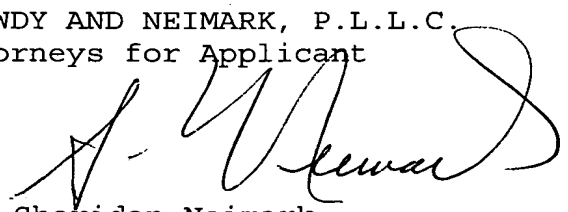
Applicants accordingly respectfully request that the species requirement be reconstituted to include plural species.

Applicants respectfully await the results of a first examination on the merits.

Respectfully submitted,

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